

Town of Northumberland

Planning Board

Location: Town Hall

Accepted by the Planning Board

Monday, June 26, 2023

7:00 pm Page 1 of 4

Planning Board Members Present: Melanie Eggleston, Lisa Black, Holly Rippon-Butler, Vice Chair Heber, Brit Basinger, David Williams, Michael Haag and Chair Susan Martindale

Members Absent: Jeff King

Town Employees Present: Lindsay Dodd, Town Counsel, Michael Terry, Code Enforcement and Tia Kilburn, Clerk

Chair Martindale opened the meeting and addressed all in attendance and asked them to stand and salute the flag at 7:00 pm. Quorum established.

Chair Martindale announced a public hearing for **Tracy Mauran, 13 Leonard Street, application #: 0002-23, site plan to convert theater back to a church.** She asked Mr. Mauran to explain his proposal and any updates. Mr. Mauran stated he had an updated map with the addition of the placement of the fence as the Board requested at the previous meeting, something the neighbor wanted. Chair Martindale asked Mr. Mauran to display a copy of the map for the public to view.

Mr. Williams stated he read the minutes from the previous meeting, and he asked Mr. Mauran if he and the neighbor agreed on the fence, Mr. Mauran replied no, he has not spoken to the neighbor, the Clerk stated the neighbor moved from that residence. Mr. Terry said on the advice of the Town Attorney he added the fence. Chair Martindale stated it would be in the best interest of the Church to have a fence, Mr. Terry agreed.

Chair Martindale asked if there was anyone in public attendance that would like to speak regarding this application:

Mr. Hoffman, neighbor to the Church stated he is in favor of NOT having a fence, he said the Church has been there since 1948 or 1949 without a fence, he said he borders the property and they do not need a fence. If you are coming down the road and there is a fence you will not be able to see it. He said there is no reason, there are no obstructions anywhere between the property and the Church, there is not anything that is an eye sore in any way.

Chair Martindale thanked Mr. Hoffman for his comments and asked if there was anyone else that would like to comment, none were noted. Chair Martindale stated part of the discussion was that the fence was not going clear to the road, Mr. Terry said it stops at the front of the house. Mr. Williams asked if there was a rule that if the fence is within so many feet of the curb it has to be less than 4'? Mr. Terry agreed and said but this fence is not going to be in what is considered the front yard so it wont obstruct the viewshed for the road.

Chair Martindale asked if there was a motion to close the public hearing?

Vice Chair Heber made a motion to close the public hearing for application #0002-23, Ms. Rippon Butler 2nd the motion, All in attendance unanimously agreed.

Chair Martindale announced the **public hearing for application #: 0005-23, Michael Bannon, 674 West River Road, shoreline overlay district to construct a single-family residence.** She asked if there were any changes they would like to present. Mr. Rich Nolan from Nolan Engineering stated he represents Mr. Bannon who is also in attendance. Mr. Nolan replied yes and added the previous month the Board requested updates to the site plan, he said he met with Mr. Terry at the site, they walked the site so he could understand what the Board was looking for.

One of the things the Board was looking for was to show the location of the adjacent septic and wells, they located the well and septic for the property to the North, to the left as you are looking at Mr. Bannon's property from the road, the property to the South they determined there is no well on the property it is actually across the road and they were not able to locate a septic system. He explained the Board also asked for the frontages and label the property lines as far as length goes, he has done that, he moved the proposed well location to an area that would not restrict either neighbor from putting a septic anywhere on their property. He stated the current driveway is right next to the property line, that was not done permanently it was just to get vehicles back in there, they have shown on the map the driveway is to be at least 5' off the property line, he added approximately 1/3rd down the property there is a ravine, the driveway now does not have a culvert, Mr. Bannon has agreed to install a culvert under the driveway to direct the water into the ravine. He said he believes the final item was that at the back of the property there was a swale that was dug that allowed the water to go down the hill and that has been filled in, so there is no longer a swale that would let water run down the hill into the river. He said they show the septic and 100' setback so he believes they have met everything the Board requested since the last time.

Chair Martindale asked if there was anyone from the public that would like to comment on this proposal.

Ms. Morris owner of a neighboring property asked if she could ask a question, it was allowed, she said they indicated they are going to shrink the driveway, she asked if they were moving the fence over to the driveway? Mr. Nolan asked Mr. Bannon if the fence was his and if he was moving it? Ms. Morris said she was asking because the construction vehicles are going to go right over the property pin. Mr. Bannon said yes, it is his fence, and it is on the property line, he said no they are going to move the driveway over not the fence. Ms. Morris stated she is fine with the fence she was concerned about vehicles driving the pins to the ground. Mr. Nolan stated the concern is with the pin and he suggested Mr. Bannon keep the construction vehicles off that 5' area.

Chair Martindale asked if there were any additional comments, Ms. Rippon-Butler asked if that last explanation resolved the concern. Ms. Morris said as long as they don't drive the pins in, Mr. Bannon agreed. Mr. Basinger reiterated that currently the fence is on the pin and the driveway goes right up to it so if they move the driveway over 5' it will solve that.

Chair Martindale stated if there are no more comments, she would entertain a motion to close the public hearing;

Vice Chair Heber made a motion to close the public hearing,
Mr. Williams 2nd the motion,
All in attendance unanimously agreed.

Chair Martindale stated there was no new business on the agenda and announced they would move to old business and re-address **application #: 0002-23, the Church**. She stated the application went to Saratoga County Planning for review and they responded there was no significant county wide or intercommunity impact, they had a comment regarding the NYS DOT curb cut, they suggest the applicant should consider creating a single standard NYS DOT commercial curb cut off of Route 32 in order to better define the site's access point and provide a more defined internal traffic circulation pattern. A NYS DOT curb cut will be required. Mr. Terry stated they are working on it, he has spoken to Wayne from DOT because that was a concern, they are going to send an engineer out so that can be a provision of the approval if you choose. Discussion ensued on the flat open space to Route 32.

Chair Martindale asked if there were any comments or questions from the Board, none were noted, she stated she would entertain a motion to approve the application contingent upon the NYS DOT curb cut is resolved;

Vice Chair Heber made a motion to accept the application and site plan as submitted contingent upon NYS DOT cub cut approval.

Ms. Black 2nd the motion

All in attendance unanimously agreed.

Chair Martindale announced the next item on the agenda, **application # 005-23, Michael Bannon**, shoreline overlay. She stated this application went to Saratoga County Planning for review and they responded there is no county wide or intercommunity impact, they have an additional comment; A Saratoga County DPW driveway permit will be required to provide access to the site from County Route 29 (West River Rd). The current layout of the proposed driveway, as depicted on the site plan provided by the Town of Northumberland, does not meet Saratoga County DPW's design criteria. A minimum of 5' between the property lines is needed before starting the radius of the driveway is required. The applicant should contact the Saratoga County DPW prior to a building permit being issued to correct this discrepancy. She stated it sounds like that has been addressed. Vice Chair Heber asked to see a large copy of the site plan, he agreed it was addressed and said he thinks everything else has been addressed, he said there was something about animals? Mr. Terry said yes there is a fenced in area and Mr. Bannon has a couple of small pet goats, there were some cows that the neighbor was pasturing and those have been removed. Vice Chair Heber stated they need clarification because just having cows on your property is not considered a farm. Mr. Terry agreed and said but it was part of a commercial operation. Vice Chair Heber said they need clarification because if you have cows on your property you don't need to have 10 acres, because you are not considered a farm, they are just grazing on the property. Ms. Dodd, Town Counsel stated she would look up the legal description of a farm if you prefer, Vice Chair Heber agreed and said he is basically saying it for future reference. Chair Martindale agreed and said if it came up once it will come up again, Mr. Terry agreed and said it has, because they have 5 acres in the agricultural zone and because they are in the agricultural zone they think they can have animals. Vice Chair Heber said it is different if they build a barn and do all that than just having animals grazing on the property. Ms. Dodd stated she would do some research on it and send out a memo. Mr. Williams asked if there was a regulation to how much property you have to have to be a farm as opposed to animals / property ratio? Ms. Dodd replied she believed so, but she will have to look it up because she doesn't know the specifics right off the top of her head.

Chair Martindale asked if the clear cutting of the trees was resolved as well? Mr. Terry replied yes, he met with Saratoga County Soil and Water and he didn't cut within 35' of the shoreline because the shoreline goes down about 60', he is well out of that and it matches the existing tree line, all he was doing was clearing out for a backyard.

Chair Martindale asked if there were any other comments from the Board, Mr. Haag stated he looked the property up on the State GIS system, and it shows on the eastern side of the property it is actually submerged, Vice Chair Heber stated this property will not be submerged unless half of Northumberland is submerged, it is about 80' down to the river. Mr. Haag said that was his question because he did not know if the property had been measured and staked or not. Mr. Haag passed the printout of the GIS system to Vice Chair Heber to review. Mr. Haag said he assumes the property lines were determined years and years ago and the water has just eroded the banks. Discussion ensued on the review of the shoreline and property line.

Mr. Haag asked because it is in the shoreline overlay district, they have to measure from the mean high-water mark, Vice Chair Heber stated it specifically says the mean high-water mark, Chair Martindale said that mark will continually fluctuate. Mr. Basinger stated it is in the shoreline overlay district, but he is not sure if it matters where the water actually lies on the property, it is a setback to follow. Mr. Haag said that is what his question was, Mr. Basinger said he doesn't think it matters, Vice Chair Heber said it matters if they are building within the setback,

he added this is definitely 60 to 80 feet above the water line because of the elevation of the property and where he is putting the house and septic system in.

Mr. Haag said his question is where the actual edge of the river is, the hard water line compared to where the property line is, from the printout he had it looks like the river has eroded the bank and over flooded the property line. Vice Chair Heber asked where he got the photo he was looking at. Mr. Haag replied it is off the State GIS system. Vice Chair Heber said from the computer / internet, they are not accurate, the image is incorrect it is showing the blue of the river being 40 feet up, the contour lines are going right through the blue. He explained the lines are in 10' contours so they are showing 40' of the blue image going up the bank. Vice Chair Heber stated if the river grows 40' we would all be in trouble, that is why he is saying it is not accurate. Mr. Basinger reiterated what Mr. Haag was saying, if the water line goes over the property line then it will affect where the 100' setback is, Mr. Haag agreed and said he is saying the shoreline overlay district is based on the mean hard water line.

Ms. Rippon-Butler asked who provided the number they heard earlier of 60', was it an agency or something? Mr. Terry said no it was him, it is a steep bank and he was not going down there and measure down the bank, he was looking at it for the tree line. Ms. Rippon-Butler reiterated he is saying the septic is well beyond the setbacks to where the water is, Mr. Terry agreed. Mr. Basinger interjected; he is talking horizontally, Mr. Terry agreed. Mr. Basinger asked if they had the water line surveyed, Chair Martindale stated that changes by the hour with the water flow. Mr. Basinger stated he was trying to help Mr. Haag figure out if the water line is further on the property than where the setback is, the septic would just have to be shifted depending on where the water line is. Discussion ensued on the water line to property for the setback.

Vice Chair Heber stated the actual septic system is more than 100' from the setback, the fill is closer but the actual system itself is more than 100'. Mr. Nolan agreed and said the tank itself is way more than that but the leach field is what people are concerned about. Mr. Nolan explained that is a survey the site plan is on and obviously surveyors are going to be accurate, the GIS system is not always accurate. Mr. Williams asked what is it based on, the GIS is it GPS or points, Mr. Nolan said he is not sure when they have to do plot plans they do not always use GPS, not all people have GPS and that is not always accurate, he said he is not sure what it is based off of. Mr. Basinger suggested satellite. Discussion ensued on the use of GPS and GIS for surveys. Mr. Nolan said the survey they have is accurate and GPS and GIS is not always, that is why they do not use them.

Vice Chair Heber made a motion to approve the application contingent upon County DOT approval of the driveway and permit issued.

Ms. Eggleston 2nd the motion,
All in attendance unanimously agreed.

Vice Chair Heber made a motion to approve the June Meeting Minutes,

Ms. Black 2nd the motion,
All in attendance unanimously agreed.

Vice Chair Heber made a motion to adjourn the meeting at 7:42 PM,

Ms. Eggleston 2nd the motion,
All in attendance unanimously agreed.

Respectfully submitted,
Tia Kilburn
Planning Board Clerk